



LIBERTY

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A MAGAZINE OF RELIGIOUS FREEDOM



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DECLARATION OF PRINCIPLES

Religious Liberty Association

1. We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ.
2. We believe that the ten commandments are the law of God, and that they comprehend man's whole duty to God and man.
3. We believe that the religion of Jesus Christ is founded in the law of love of God, and needs no human power to support or enforce it. Love cannot be forced.
4. We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights and to rule in civil things, and that in this realm it is entitled to the respectful obedience of all.
5. We believe it is the right, and should be the privilege, of every individual to worship or not to worship, according to the dictates of his own conscience, provided that in the exercise of this right he respects the equal rights of others.
6. We believe that all religious legislation tends to unite church and state, is subversive of human rights, persecuting in character, and opposed to the best interests of both church and state.
7. We believe, therefore, that it is not within the province of civil government to legislate on religious questions.
8. We believe it to be our duty to use every lawful and honorable means to prevent religious legislation, and oppose all movements tending to unite church and state, that all may enjoy the inestimable blessings of civil and religious liberty.
9. We believe in the inalienable and constitutional right of free speech, free press, peaceable assembly, and petition.
10. We also believe in temperance, and regard the liquor traffic as a curse to society.

For further information regarding the principles of this association, address the Religious Liberty Association, Takoma Park, Washington, D.C. (secretary, C. S. Longacre; associate, H. H. Votaw), or any of the affiliated organizations below:

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LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM

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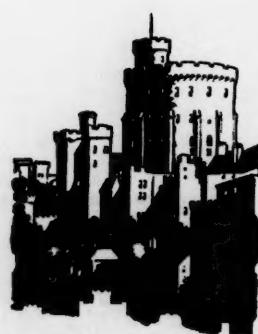
LIBERTY IS THE SUCCESSOR OF THE AMERICAN SENTINEL, WHOSE FIRST NUMBER WAS PUBLISHED IN 1886, AT OAKLAND, CALIFORNIA. ITS NAME WAS CHANGED IN 1906 TO LIBERTY, UNDER WHICH NAME IT HAS BEEN PUBLISHED QUARTERLY BY THE REVIEW AND HERALD PUBLISHING ASSOCIATION, TAKOMA PARK, WASHINGTON, D.C. ENTERED AS SECOND-CLASS MATTER MAY 1, 1906, AT THE POST OFFICE AT WASHINGTON, D.C., UNDER THE ACT OF CONGRESS OF MARCH 3, 1879. SUBSCRIPTION RATES—ONE YEAR, 50 CENTS; CLUB OF THREE SUBSCRIPTIONS TO SEPARATE ADDRESSES, \$1; FIVE OR MORE COPIES, MAILED BY PUBLISHERS TO FIVE ADDRESSES OR TO ONE ADDRESS, POSTPAID, EACH, 9 CENTS. NO SUBSCRIPTIONS FOR LESS THAN ONE YEAR RECEIVED. REMIT BY POST-OFFICE MONEY ORDER (PAYABLE AT WASHINGTON, D.C., POST OFFICE), EXPRESS ORDER, OR DRAFT ON NEW YORK. CASH SHOULD BE SENT IN REGISTERED LETTER. WHEN A CHANGE OF ADDRESS IS DESIRED, BOTH OLD AND NEW ADDRESSES MUST BE GIVEN.

VOLUME 38, NUMBER 2

SECOND QUARTER, 1938



Charles I Was Anointed to Be King of Great Britain and Ireland in 1626. The Ceremony Was Performed by the Archbishop of Canterbury, at Westminster Abbey. It Had Been the Intention of Charles I to Be Crowned With His Consort, but Henrietta, Being of Another Faith, Refused to Be Consecrated.



Windsor Castle

King Charles I, at first popular with his subjects, aroused their ill will by marrying Princess Henrietta Maria of France. His prime minister led him into warlike schemes which ended ignominiously. Three Parliaments, convoked in four years, were dissolved in royal exasperation at their refusal to comply with his arbitrary measures, and public feeling became embittered. The third Parliament presented the Petition of Right in 1628. The king temporized and conceded, then dissolved Parliament and caused some of the leading members to be imprisoned. Charles governed without a Parliament for eleven years. Then followed intrigue, plots, and a civil war. Parliament was again called. Charles' troubles grew from bad to worse. Whether rightfully or not, he was sentenced to death as a tyrant and enemy of the nation. He was beheaded at Whitehall, January 30, 1649, and buried without service in Windsor Castle.

The Whence, the What, and the Why of Our Constitution*

by HON. HATTON W. SUMNERS

*Chairman of the Committee on the Judiciary of the
United States House of Representatives*



MAY I DIRECT YOUR ATTENTION to another example of the natural evolution of our Constitution? We have a great parliamentary privilege incorporated in the Federal Constitution which we may designate as "freedom of debate." It is as follows: Article I, Section 6, Clause 1. "The Senators and Representatives . . . shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place." (Italics ours.)

This is how that privilege was established: In 1642, one hundred forty-five years before the Federal Constitution was framed, King Charles I sought to arrest five offending members of the House of Commons for statements made in debate. These members escaped him. King Charles went in person to effect the arrest of the five members. To Lenthall, speaker of the house, who stepped from the chair to meet him, King Charles said: "Mr. Speaker, I must for a time make bold with your chair." Approaching the chair, but not occupying it, he addressed the house, saying, "Gentlemen, I am sorry for this occasion of coming unto you. Yesterday I sent a sergeant-at-arms upon a very important occasion to apprehend some that by my command were accused of high treason; thereunto I did expect obedience and not a message. And, therefore, I am come to know if any of these persons that were accused are here." When nobody answered him, he pressed the speaker to tell him, who, kneeling down, did very wisely desire His Majesty to pardon him, saying that he could neither speak nor see but by command of the house.

When the king left the house, the people of London cried out against him, "Privilege, Privilege." This was the ending. The king lost his kingdom and his head. That was the last challenge of freedom of debate.

Origin of a Free Press

We have another great privilege called the freedom of speech, to which has become attached freedom of the press. The struggle for freedom of speech was won by the people in the streets of London in 1771. John Wilkes, a member of Parliament, was responsible for the publication of speeches delivered in the House of Commons, together with the names of the speakers. Miller and Wheble, the publishers, were arrested, but the lord mayor of London refused to recognize the arrest as legal, and released the prisoners. Wilkes and the mayor were sent to the Tower, but such was the enthusiasm shown in their favor by the opposition in the city of London that the House of Commons thought it best to drop the matter. This established another great constitutional right, but long before this incident, the people had been claiming this privilege.

It is a coincidence that while the people of London in 1771 were making their fight for this privilege, we on this side of the Atlantic were also making history of a similar sort. From the beginning the colonists claimed for themselves all the rights and privileges which had been theirs in England. It was granted to them in the various colonial charters that they and their posterity should enjoy the same rights and liberties to which the Englishmen were entitled at home. While these charters were nominally acts of grace on the part of the king, it is no doubt true that they were also concessions which he was obliged to grant in order to persuade prospective colonists to come to America. A part of their constitutional

* This is the second of a series of four articles on the Constitution which Congressman Sumners is writing exclusively for the LIBERTY magazine.

rights was expressed in these charters and a part of them, here as in England, lived firmly rooted in their governmental concepts and instincts. Through the many centuries they had developed certain definite governmental instincts. While much had been written into documents and proclaimed by statesmen and political philosophers, it was in the concepts, the instincts, the thinking, and the purpose of the people that the distinctive characteristics of Anglo-Saxon systems of government were established and preserved through the centuries.

First Virginia Charter of Rights

Moving now to this side of the Atlantic, we find that in the first Virginia charter (1606) it was provided, "Also we do for us, our heirs and successors, declare by these presents that all and every person being our subjects, which shall dwell and inhabit within every or any of the said several colonies and plantations, and every of their children, which shall happen to be born within any of the limits and precincts of the said several colonies and plantations, shall have and enjoy all liberties, franchises, and immunities, within any of our other dominions, to all intents and purposes, as if they had been abiding and born, within this our realm of England, or any other of our said dominions."

Under this charter, however, no provision was made for participation of the colonists in the government of the colony; but such a participation was not long denied. There was resident in that people an inherited and acquired governmental capacity, developed through the centuries of participation in governmental affairs and in sharing governmental responsibilities, which qualified and made them able to share in the responsibility and help in the solution of the governmental difficulties of the colony. They were not only disposed to insist upon their rights as freemen, but were able to demonstrate an ability to discharge the duties incident to these rights. That is how it happened, as a contemporaneous historian wrote, that "in 1619 a House of Burgesses broke out in Virginia." A natural development.

Roger Williams First to Protect Religious Rights

The charter of Rhode Island (1663) embodied the most complete grant of power for the operation of a popular government. It provided that "there shall be one governor, one deputy governor, and ten assistants, to be from time to time constituted, elected, and chosen out of the freemen of the said colony. . . . The assistants . . . and not exceeding six persons from Newport, four persons from each of the respective towns of Providence, Portsmouth, and Warwick, and two persons from each other town or city, who shall be from time to time thereunto elected or deputed by



The First Virginian Assembly, or House of Burgesses, Met in the Chancel of the Church at Jamestown on July 30, 1619. We of Today Can Look Back Upon It With Pride, for It Was the First Representative Assembly in America. Indeed, as One Writer States, It Was the "Beginning of Liberty and Self-Government in the English Colonies."

the major part of the freemen of the respective towns or places for which they shall be so elected or deputed, shall have a general meeting or assembly to consult about the affairs of the colony." The title given to such a meeting was the General Assembly. The number constituting a quorum was fixed. The time of meeting was fixed, subject to power to change. Provision was made for the creation of all necessary officers, appointing officers, fixing jurisdiction of courts, making of laws, granting pardons, training and embodying the militia, levying taxes, that "all officers shall give their solemn engagement by oath or otherwise for the due and faithful performance of their duties in their several offices and places." That all citizens of the colony "shall have and enjoy all liberties and immunities of free and natural subjects within any of the dominions of us, our heires or successors, to all intents, constructions, and purposes, whatsoever, as if they, and every of them, were borne within the realme of England."

In this charter the following language is most remarkable, considering what we are told as to where and how the fact and privilege of religious liberty originated: "And whereas in their humble address

they have freely declared that it is much on their hearts (if they may be permitted) to hold forth a lively example that a most flourishing civil state may stand and best be maintained, and that among our English subjects, with a full liberty in religious concernment." That was the conception of the little colony of Rhode Island of men's right to religious liberty, not only as an abstract matter, but as related to government.

Upon this petition it was granted in their charter: "Have therefore thought fit and do hereby publish and grant, ordain and declare that our royal will and pleasure is that no person within the said colony at any time hereafter shall be in any wise molested, punished, disquieted, or called in question for any differences in opinion in matters of religion, and do not actually disturb the civil peace of our said colony, but that all and every person and persons may from time to time and at all times hereafter freely have and enjoy his and their own judgments and consciences in matters of religious concernment, . . . any law, statute, clause therein contained or to be contained, usage or custom of this realm to the contrary hereof in any wise notwithstanding."

The king naively explains in his charter that certain inhabitants could not conform to the rules of the Established Church, and that they were so far away that their failure to do so would be no breach of the "uniformity established in this nation" anyway, and that he was willing to "encourage the hopeful undertaking."

This was the first unqualified recognition of freedom of conscience in religion and of the relationship between that freedom and governmental strength and perpetuity. The date was more than a hundred years before the incorporation of the provision with regard to religious liberty in the Federal Constitution.

Our Constitution of Divine Origin

Those who sat in the Federal Constitutional Convention more than a century later did their work well, but we must not be confused as to what they did. They

did not originate or create our Constitution. Such a thing was never done by human beings. Our Constitution came from a higher source. Men can prune, cultivate, and protect a tree, but only God can make a tree. Our Constitution came from the same Creative Source from which trees come. This is not a statement merely of curious or academic interest. It is the most practical, the most important, the most fundamental fact necessary for those of us to know and respect who are charged with the responsibility of operating our system of government under our Constitution.

This article is not being prepared for lawyers, but is being prepared for the average American citizen, who in the first and in the last analysis, is the source of normal governmental power under our Constitution. It is impossible for the average citizen properly to discharge his duties unless he has a fairly clear understanding of what his job is, and of the source and the nature of the thing with reference to which he has to work.

Origin of Our Federal Government

We may now consider our federal development. The first suggestion of a confederation among the colonies was in 1637. It was again suggested two years later. The first meeting was held in May, 1643, when representatives from Massachusetts, Plymouth, Connecticut, and New Haven met in Boston. In that which was agreed to at this conference the germ of a written constitution for a "federation" or "union of sovereign states" may be seen.

By Article 1 it was provided: "Wherefore it is fully agreed and conceded among the parties or jurisdictions (of Massachusetts, Plymouth, Connecticut, and New Haven) that they shall all be henceforth

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The Struggle for a Free and Untrammeled Press Began When the Art of Printing Was in Its Infancy. Liberty of the Press, Guaranteed by the American Bill of Rights, Is Truly the Heritage of a Free People. In Those Lands Where the Press Is Muzzled and News Is Censored, the People Have Lost, in a Very Large Degree, Their Birthright of Freedom

SECOND QUARTER



The Bill of Rights

"The Marrow of the Constitution"

by DAVID SAVILLE MUZZEY, Ph.D.,

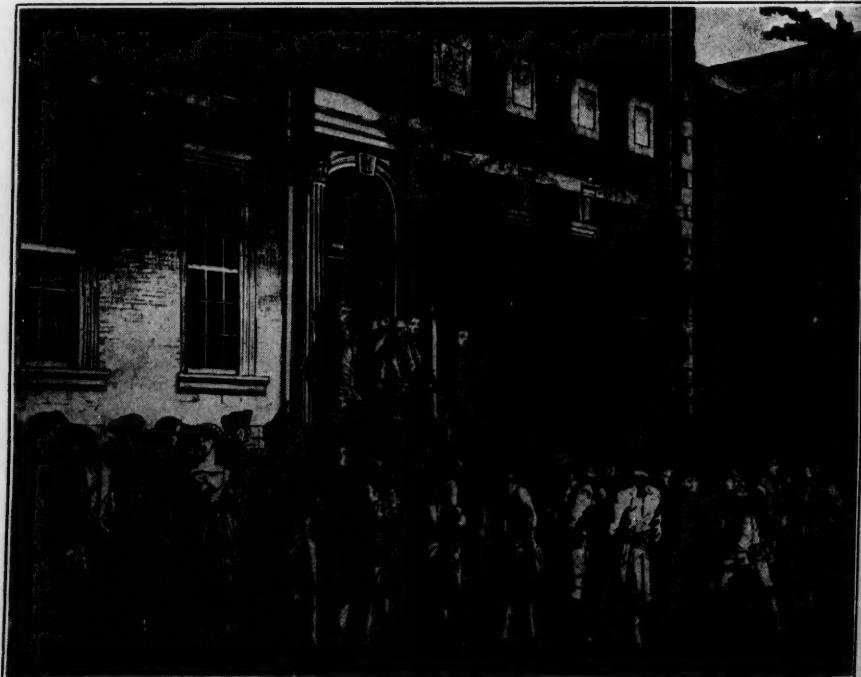
of Columbia University

[Dr. David Saville Muzzey, graduate professor of history, Columbia University, since 1923, is the author of many books, including an American history which has had very wide use in the United States. Doctor Muzzey is a deep student of everything that pertains to the rise of the American nation. LIBERTY is pleased to present to its readers this contribution from his pen.—EDITORS.]

OUR CONSTITUTION is rightly prized as a glorious heritage. Every paragraph, phrase, and word of the immortal document has been the subject of intense study and analysis from the legal, the political, the historical, the social, point of view. But there are two parts of the Constitution which, I am convinced, have not received their due emphasis in our estimate of the worth and meaning of that charter of our liberties. The first is the brief "Preamble," or preface, which states in six short phrases the objects which the Fathers aimed at accomplishing in their formulation of a new instrument of government. A preface is often skipped by the reader, though it may be quite the most important part of a book, revealing the purpose the author had in mind in writing the book, and hence coloring the whole treatment of his subject. Such a preface is the Preamble. It gives us the *raison d'être*, the *purpose*, of the Constitution. And it is significant that five of the six aims mentioned (all except providing for the common defense) are

distinctly *ethical* in character. The Fathers, therefore, intended their document to be more than a mere framework of government, specifying the qualifications, duties, and powers of the three branches charged with legislation, administration, and judicial intervention; they meant it to be a charter of liberties, a confirmation and guaranty of the principles proclaimed in the Declaration of Independence.

It is not, however, the Preamble which I wish to discuss in this article, but rather that second part of the Constitution called the Bill of Rights, embodied in the first ten amendments to the Constitution. For just as a preface is often passed over as a perfunctory foreword to a volume, so an appendix may be ignored as a mere afterthought. The book is finished, the story is done; why bother with a postscript? But the Bill of Rights is not a mere afterthought or postscript. These ten amendments, boiled down from more than a hundred proposed by the various States and adopted in the summer of



Momentous and History Making
Were the Days of 1776 When the
Declaration of Independence Was
Adopted in Old Independence
Hall in Philadelphia. In This
Same Building, Eleven Years
Later, the Constitution Was
Framed and Signed

1789 by the First Congress of the United States, were considered by statesmen debating the Constitution in their State ratifying conventions, by publicists discussing the merits of the new document, by advocates and opponents alike of the Constitution, as the very most important provisions to be inserted; or, as a Representative from Pennsylvania put it in 1806, "These amendments constitute what might be called the marrow of the Constitution."

Indeed, it is almost certain that the Constitution ("extorted from a reluctant people by a grinding necessity," as the grim John Adams remarked) would not have been adopted at all, had it not been for the assurance that a glaring deficiency in it would be remedied at the earliest opportunity by incorporating into it the specific guarantees of personal freedom which the ten amendments gave. For example, the ratifying conventions in Massachusetts and Virginia, to name only two of the most important States, voted for the Constitution only on the express condition that their representatives in Congress should demand the addition of a Bill of Rights.

And a member of the South Carolina convention declared that his constituents were "nearly all to a man opposed to the new Constitution" because it omitted a specific guaranty of "the unalienable rights of man, without a full, free, and secure enjoyment of which there can be no liberty." Thomas Jefferson, writing to Madison from his ministerial post in Paris, expressed his grave concern over the omission from the original Constitution of the most important provision of all: "A Bill of Rights is what the people are entitled to against every government on earth."

History and Contents

Let us look, briefly as we must, at the history and contents of this Bill of Rights. When the English patriots drove James II from the throne in the "bloodless revolution" of 1688, and invited his son-in-law, William of Orange, to reign in his stead, they limited the power of the new monarch by a set of prescriptions passed by Parliament in 1689, called the Bill of Rights. It was a summary, a condemnation, and a prohibition of the abuses suffered under the Stuart kings. The sovereign was forbidden to suspend or dispense with laws or to keep a standing army in time of peace without the consent of Parliament; no levy of money was to be made except by grant of Parliament; subjects were to have the right to petition the king, and freedom of debate in Parliament was not to be denied; excessive fines and cruel or unusual punishments were forbidden; arbitrary tribunals like the Court of High Commission were banned; trial by a jury of freeholders was prescribed in cases of treason.

These guaranties of liberty entered into the politi-



It Is Unfortunate That Old Federal Hall in New York City Does Not Exist Today. It Was in This Building That Our First President, George Washington, Was Inaugurated, and the First Congress Under the Constitution Was Convened. Here the Bill of Rights, Consisting of Twelve Articles, Was Passed for Submission to the States. Ten Articles or Amendments Were Finally Ratified by the People

cal consciousness of the American colonies. The Bill of Rights, along with the Magna Charta and the Petition of Right of 1628, formed a part of those liberties of an English subject which the colonists cherished as a birthright. Even before the Declaration of Independence was written, Virginia had adopted (June, 1776) the noble Bill of Rights drawn up by George Mason. And when the Constitutional Convention met in 1787, eight States (Virginia, Pennsylvania, Delaware, Maryland, North and South Carolina, New Hampshire, and Massachusetts) had incorporated a Bill of Rights into their constitutions.

Not all these Bills of Rights corresponded in their provisions with their original English model; for the circumstances were different. There was no king or aristocracy to curb in America, no danger of a tyrannous monarch's setting up a court of judges subservient to his arbitrary will. Yet in all the eight States' Bills of Rights appear four fundamental personal rights which were incorporated into the first ten amendments to the Federal Constitution; namely, freedom of religion, freedom of the press, trial by jury, and the guaranty against deprivation of life, liberty, or property without "due process of law," i.e., without a fair trial. In one major provision our national Bill of Rights went beyond either the English Bill of 1689 or any of the American State Bills. Freedom of speech was guaranteed in the latter instances only to members of Parliament or of the State legislatures. But in the First Amendment this fundamental liberty is asserted without qualification: "Congress shall make no law . . . abridging the freedom of speech." And the Tenth Amendment, to make doubly sure the guard against usurpation by President or Congress of extraconstitutional power, declares that "the powers not delegated to the United

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The Evil Effects of Flouting Our Constitution

by HON. GEORGE A. WILLIAMS

(Former Lieutenant Governor of Nebraska)



WE ARE IN THE MIDST of stirring times. Never, perhaps, since the reconstruction days following the Civil War have there been such disturbing problems and such deep-seated issues before the American public. And never has the well-being of the nation been so dependent on the right solution of those problems and on the manner in which the impending issues are met. "We are living in a day of destiny. And to live in a day of destiny and be unaware of it is a tragedy."

In a recent article, Walter Lippman said: "There is ample room for honest differences of opinion about the way the courts have interpreted the Constitution, about the relation between the judicial power and the legislative, about the personnel of the present Supreme Court, about its record." This may all be true, but surely there can be no room for honest differences of opinion regarding the animus behind the bitter, scathing, and altogether-undignified attacks upon the fundamental law of the land and upon its interpreter, the Supreme Court.

When we scrutinize the history of the American system of government in existence for a century and a half under a written Constitution, with its record of unrivaled progress in all lines of endeavor, bringing prosperity, happiness, and contentment to multiplied millions of people through the years, an honest respect for truth must lead to the unanimous conclusion that these attacks are unfair, un-American, and altogether unjustified, from any and every hypothesis of sound reasoning. Not only are they unjustified, but the effect is harmful in the extreme, and is calculated to break down and destroy the confidence of the people in their present form of government, and at the same time to inculcate in the minds of many a growing disrespect for all government.

Repeatedly of recent months there have been seen the fruits of the ridicule and contempt heaped upon the fundamental law of the land. We have seen bodies of men take the law into their own hands in

open and publicly expressed defiance of law-enforcement officials and of court orders. An attitude of open defiance is maintained, and administrative officials have been warned to keep hands off. From coast to coast, strikes and lockouts have been the order of the day, accompanied by destruction of life and property, with strikers on the inside and owners on the outside of the plants, while the law was flouted. The encouragement of disrespect and disregard for constituted authority in government will culminate in the United States, as it has in many countries of the Old World, in the destruction of popular government and the setting up of dictatorial forms of government, in which the people have no voice.

Overthrow of Popular Government

The same discord that has of recent years torn the nations of the Old World asunder where a short time ago democracy was in the ascendancy, is today sending its roots deep into the political soil of our land, and will, if not checked, bring the same destructive results, ending in the complete overthrow of the greatest and most successful experiment in popular government ever recorded in the history of nations. Never before in America has there been such a bold challenging of liberty and of popular government as is seen at the present moment. Never before have men dared openly to condemn those great fundamental principles to which we are indebted for our national greatness, and never before have the blighting isms of the decadent Old World, the fruits of which are tyranny and oppression, been offered as a substitute for our guaranties of liberty, equality, and justice.

Over and over again has it been said that this foul brood of isms will find no fertile soil in free America. It is a waste of time and effort to discuss the question of their coming. *They are already here, and are becoming more strongly entrenched as time goes on.* "Our march away from constitutional government and toward the swamps and morasses of com-

munism, bolshevism, and fascism, from liberty to tyranny, has been more rapid than similar revolutions in Russia, Germany, and Italy." These are the words of former United States Senator James A. Reed (Democrat) of Missouri, in an address before the Lawyers' Association of Kansas City. As never before in the history of civilized nations, tyrannies are moving across the face of the earth and successfully attacking the governments under which human rights in any degree are maintained. Stealthily have their poisons been injected into the political, religious, educational, and social fabric of our national being. Emboldened by their success, they now openly challenge the soundness of long-cherished doctrines of liberty. So successful have they been, that their supporters are now found in legislative halls, in institutions of learning, and in religious circles. So subtle are their sophistries, that men's minds are confused, and clear thinking is not possible.

It is a new thing and strange in the ears of Americans to hear men defending the tyrannies of Europe. Still more strange is it to hear men deriding the fundamentals of their own government, a government dedicated to the principles of human liberty, a government founded on the principle that all men are equal and have certain inalienable rights which neither the executive nor the legislative branch of the government can take away, a government with an untrammelled judiciary set for the defense of the people's rights, that they may enjoy to the full every natural, inherent, God-given right that mankind is heir to, every right that a just God intended men should enjoy.

What is there in totalitarian forms of government that these men seem to prefer in advance of a democratic republic? What is the difference? Let United States Senator Borah tell us: "The constitution of Italy is the fertile and restless brain of Mussolini. The constitution of Germany is the daring and resourceful character of Hitler. The constitution of Russia is the iron will of Stalin. The Constitution of the United States is the will and purpose of the American people, crystallized into a written document binding upon rulers and people alike. The characteristics of the former constitutions are the restraint and repression they place upon the people and the latitude of power they allow the rulers. The crowning virtue of the latter Constitution is the restraint and the control it imposes upon the agents and representatives of, and the liberty it allows to, the people. Under the former constitutions, the people are subjects. Under the latter Constitution, they are the masters. . . . Under it the average citizen emerges

from a state of serfdom to that of a sovereign. Greater progress and more universal happiness has been the portion of the masses since the year 1789 than in all the 5,000 years preceding it."

No one can dispute the truth of the final statement in the quotation above. Why, then, do men seek to destroy the fundamentals of our government and bring upon us again the tyrannies from under which we emerged so painfully scarce a century and a half ago?

Constitution Has Stood Test

The Constitution has stood the test for 146 years. Its principles are as new today as when it was first written. They know no age and do not expire by limitation. All through the years the Constitution has been the marvel of the statesmen of the nations of earth. No political pronouncement has at any time lived and borne fruit for the good of humanity as has the Constitution. The political philosophy of Washington, Jefferson, and Madison cannot rightfully be supplanted by the communist philosophy of the so-called statesmen of our day.

Students of civil government look upon our Constitution as a national compact in which the people covenanted together to respect and perpetuate the individual rights of society. Not only do we seek to maintain our own individual rights, but we are equally desirous of preserving the same rights for every other individual. Liberty is the cornerstone of our Constitution, and true liberty is founded upon a lively sense of the sacred rights of all men everywhere. It is only through this consistent and militant belief in an equality of personal and individual liberty that we have attained national unity, and greatness. Other nations, through their many centuries of existence, with equal or superior natural resources, have failed to secure for their people the measure of individual happiness and prosperity that have accrued to the people of our land.

In this day, when we seem to be drifting from the old moorings, it is refreshing to read again the words of Calvin Coolidge: "The Constitution of the United States is the final refuge to every right enjoyed by any American citizen. So long as it is observed, these rights are secure. Whenever it falls into disrepute or disrespect, the end of orderly government is at hand. The Constitution represents a government of law. Americans must take their choice between the two. One signifies justice and liberty, the other tyranny and oppression. To live under the Constitution is the greatest political privilege ever accorded the human race."

LIBERTY IS THE CORNERSTONE OF OUR CONSTITUTION



HARPER'S WEEKLY, 1899

General Washington Leading His Worn and Tattered Soldiers in the Fight for Independence

CLYDE O. DE LAND, ARTIST

Rugged Pioneers Demanded Nothing Less Than Freedom

by HON. TELLER AMMONS,
Governor of Colorado

[Governor Teller Ammons of Colorado is an ardent champion of the principles of liberty which have made the American nation what it is. In response to a request for an article, Governor Ammons has furnished the following. We welcome him to the growing list of prominent men who are contributors to this magazine.—EDITORS.]

THE UNITED STATES OF AMERICA built her free institutions upon a simple principle. The history of this great democracy is the history of those courageous men of all nationalities, creeds, and callings who struggled for centuries for liberty. Coming from lands where oppression crushed freedom of speech and of worship, our forefathers gathered on the Atlantic coast in the thirteen original colonies.

Braving the dangers of a stormy ocean in boats we today would not consider seaworthy, facing a wilderness untamed and untried, they hewed from the virgin forests homes and from the rich soil a livelihood. Mother nations attempted to dominate them,

to mold them into the ancient form, but these rugged pioneers would have nothing less than freedom.

A bloody revolution settled the status of the colonies so far as dominance of their ideal was concerned. Washington led his ragged soldiers against the trained and provisioned armies of Britain. Victorious, the colonies were free to build for themselves. A convention was called, and these freemen framed a Constitution based upon a simple paragraph.

"We, the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

One hundred sixty years later we find ourselves still guided by the same principles that prompted our forefathers to frame this Constitution and ratify it.

It is well for us to pause and consider what we have always taken for granted, to look around us and to

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renew our faith in the ideals and principles upon which this United States has risen from thirteen struggling States to the most powerful and wealthy nation in the world. On every hand we see nations cringing under the lash of dictatorship. War lords drive the youth of those nations to a frenzy of hate against other peoples. Horrors of war, multiplied hundreds of times in the past few years by invention and science, come to us daily. In these disturbing times we may very well try to discover the reason for the fall of free peoples.

We note in every nation stricken with the cancer of dictatorship one significant thing. The people have lost the right of free speech, of free worship, and of self-determination. In every one of those nations the government owns and operates the newspapers, the radio, the press, releasing any and all printed matter. Young minds are poisoned with propaganda. In one land an entire generation has grown to maturity on promises of an imminent utopia. Expectantly they have waited for the day when the worker would be free and there should be established a brotherhood of man wherein all would be equal and each would share according to his labor. That generation has eaten its black bread and fish, has starved and worked, and its reward has been to discover that the leaders it trusted have enriched themselves and established a ruthless dictatorship wherein there is no hope for the worker. And the significant feature of that entire program was its ruthless destruction of free speech and its attack upon freedom to worship.

In another land today the same program is being carried out under a different set of men. It matters little what such a totalitarian government is called, it is all based upon the power of a small group to deprive the masses of the right to express themselves and to follow the dictates of their consciences. In every case the tragedy lies in the warping of young minds with poison, so that they will blindly follow the leadership of those men who are ambitious for personal power. Every good ideal taught by the Christian religion, every fine thing an inquiring young mind might find, is banished, and in its place are planted the seeds of hate for others and a love for power through the rule that might makes right. The feet of little boys are set upon the road to war, and they are daily shown the way to become killers.



Governor Teller Ammons
of Colorado

America stands like a giant among the nations of the world. Oppressed peoples look longingly toward us. Ours is the great opportunity for leadership. This is the test of democracy. The issue is being settled today, and I believe America will show the way to the world. Her people love liberty and will not be shoved back into the Dark Ages.

A hundred and sixty years ago we set forth the principles we still follow: Education for all, so that every man may read and interpret for himself, understanding religion and government, and determining for himself his per-

sonal philosophy of life, and not accepting the iron rule of a king or potentate or the dogma of any one creed. Today our free schools and churches are our pride.

The growth of free speech is closely linked with the growth of the printed word. From a simple system of town criers we have developed means of spreading thought in an amazing manner. Today we use millions of pounds of paper for printing; we have the radio and other speedy means of transmitting thought. News from every corner of the world is brought to us morning, noon, and night by our newspapers, and by radio newscasts.

The power of this system of news release is so great that it cannot be measured; it staggers the imagination. I have mentioned briefly how it has been used in many countries as an avenue for propaganda. As I read our daily papers, I am concerned over its uses in this country. We must be watchful of our press. Freedom of speech must not be mistaken for privileges to lie and mock and defame. Truth must be the watchword of the press and the newscast.

Every news story should be an honest recital of fact, uncolored by the personal dislikes or the petty political ambitions of the editorial room. The man who reads the story should know he is reading a true account of what happened and what was said. If there is to be comment, it should be placed upon the editorial page, where the reader will know it for what it is,—one man's opinion.

If we are to have freedom of speech, we must not abuse it. If we abuse it, we are likely to lose it.

I have faith in America, a great faith in our people. I do not believe we are going to scrap the privilege of free press, free speech, and free worship under the American flag.



Freedom Marches On - Which Way?

by R. ALLAN ANDERSON

[Mr. Anderson was born in the Australian Commonwealth and grew to manhood there. After successful work as a minister in his native land, he spent some years in London. He is now conducting evangelistic services on the Pacific Coast. We are sure our readers will enjoy this article from Mr. Anderson.—EDITORS.]

MODERN DEMOCRACY is the product of centuries of struggle. Thousands of brave men and women have laid down their lives in the cause of freedom. It is significant that it is just one hundred years ago that one of America's most notable martyrs to freedom of the press, Elijah Lovejoy, paid the supreme sacrifice in freedom's march. Now we are facing a crisis, not only in America, but in every country of the world.

In rapid succession, nation after nation has repudiated the principles of democracy. It is said that not more than twenty-five per cent of the world's population have even a semblance of freedom and religious liberty. While dictators sway the nations, human liberties lie prostrate in the dust. Great Britain and the United States are among the very few nations in all the world in which freedom of conscience and democracy prevail, but evil forces are at work in these lands, threatening a flight of liberty and consequent struggle, suffering, and sacrifice as in other lands. Stanley Baldwin said: "The world has never been less safe for democracy than it is today." The areas of liberty are rapidly shrinking. Political and religious elements are combining their forces for a great social, economic, and religious

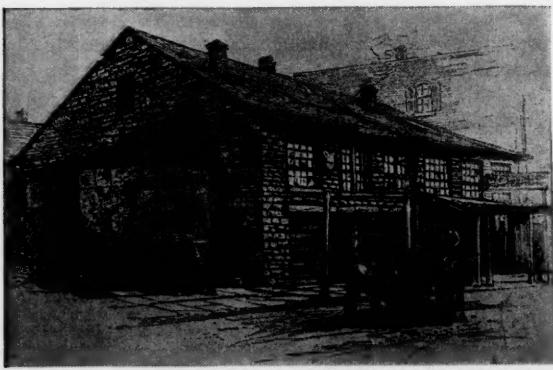
reconstruction of society, when individual freedom will be sacrificed for the benefit of the collective group. The days of democracy seem to be ending in the twilight of a sullen darkness that is rapidly enveloping our world.

Ten countries in Europe are now under the sway of dictators. Who knows how long it will be before strong men will arise even in Anglo-Saxon countries and set up additional dictatorships and steal the liberties of the people? The totalitarian state is the fashion of governments today. This is not new in the history of men. It is but a resurrection of the autocratic despotism of the Pharaohs and the Caesars.

Work of Two Centuries Undone

Sir Herbert Samuel, the leader of the Liberal party in the British House of Commons, asks, "Did any one foresee in 1914 that twenty years later, in some of the greatest countries of the world, democracy would be overthrown? For two centuries, political liberty has grown and spread; in two decades the advancement has been stopped and the movement reversed." Think of it. The work of two centuries undone in two decades! This should constitute a challenge to every lover of liberty, to every exponent of human rights, to every soul who loves his God, to every one who would safeguard the principles of justice, fairness, and equity, to rally to the defense of those principles, to lift the trailing standard of true freedom, and to unite in an effort to stem the tide that is sweeping civilization from its moorings and threatening the well-being of mankind everywhere.

We need to restudy the whole question of human government. What is the purpose of civil government? It exists solely for the protection of human rights in this world. To give rights is not within the province of any civil government. Rights are God-given, not state-given! The state cannot create primary rights, such as life, liberty, and the pursuit of happiness. Its work is to protect those rights for its citizens. These are the high principles and the foundation of the Constitution of the United States. We surely can thank God for the blessing of good government, but we should see that nothing comes in to rob us of that blessing.



Elijah Lovejoy was the Publisher of a Religious Newspaper in St. Louis Over a Hundred Years Ago. Later He Moved to Alton, Illinois, Where He Established His Printing Office, Shown in the Illustration Above. He Was Fearless in Publishing His Views Against Slavery. Intolerance, However, Led to the Destruction of His Presses and Types, and Finally of His Own Life, for He Died a Martyr to Freedom of the Press in America



Freedom of religion, freedom of the press, and freedom for the individual constitute the triumvirate that has piloted America's ship of state through a century and a half of revolution and reconstruction. The palladium of all civil, political, and religious rights is a free press. An enslaved press is doubly fatal. It not only takes away the true light, in which case we might stand still, but it sets up a false light and decoys us to our destruction. This is invariably the case with dictatorships. No criticism of the government is permitted. Freedom of speech and freedom of the press ceases. The moment the dictatorship is in power, its opponents are eliminated by force as it crushes every movement and every individual it suspects. Having thus crushed all criticism of its actions, and concealing from the people all knowledge of its failures, while trampling on the people's liberties, it magnifies its own successes, "it presses into molds of its own, making the fluid opinions of the rising generation." Schoolbooks are revised. Colleges, universities, and churches are bludgeoned into line; and every organ of propaganda—the theater, the radio, the platform, and the press—is made to serve its purpose.

The greatest glory of a free-born people is to transmit that freedom to their children. Americans need to beware lest the torch of liberty be extinguished by well-meaning, but dangerous, advocates of changes in the Constitution of their country. As an example, the National Reform Association voices in its official organ, the *Christian Statesman*, this anticonstitutional propaganda, "We need . . . to correct our most unfortunate attitude under the First Amendment, which restrains Congress from prohibiting the free exercise of religion." Will America march backward to Puritanical tyranny through such measures as this?

William Gladstone, England's octogenarian premier, declared: "The American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man." This great nation must watch lest the priceless heritage of freedom be bartered for a mere mess of pottage. Be not deceived. The hands may be the hands of Esau, but the voice is the voice of Jacob. The two great principles that made the Constitution are civil and religious liberty. These two are twins—Siamese twins; neither can exist without the other.

Civil and Religious Liberty

The greatest axiomatic truth on civil and religious liberty ever uttered was stated by Jesus Christ, "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's." As the champion of freedom He came "to preach deliverance to the captives, and . . . to set at liberty them that are bruised." Yes, "true Christianity is

the companion of liberty in all its conflicts, the cradle of its infancy, the divine source of its claims." The principles of the Bible are the groundwork of human freedom—the false, where a man is free to do what he likes; and the true, where a man is free to do what he ought. The Reformation of the sixteenth century sought to free men to do what they ought, and that Reformation was cradled in the printing press and established by no other earthly instrument. Nor can liberty perish so long as our newspapers are free. America must have an unfettered press.

Not religious toleration, but religious liberty, is true Americanism. It is spiritual regeneration, not civic reformation, that transforms the transgressor. Compulsion and coercion in religion can make hypocrites and formalists, but it cannot make Christians. It is not the churches' concern to get men ready for the White House, but to get men ready for heaven.

The Constitution of the United States, that forever separated church and state in this country, was the fruit of long struggle for liberty and intensive study by great minds. Its greatness lies in this, that it protects the divine right of man against the so-called right of kings and dictators; it permits Congress to establish a court, but not a religion; to suppress an insurrection, but not a newspaper; to close a port, but not our mouths; to regulate commerce, but not our lives; to take a vacation, but not our property. It stands as a buffer between freedom and despotism. It is a stumbling block in the path of ambitious and designing men who would destroy our liberties. It protects the weak against the strong, the minority against the majority. It upholds the sovereignty of the individual. It ensures your freedom and mine. With the great Milton we may say, "Where liberty dwells—there is my country!" Let us stand by the Constitution and honor the men whose blood-bought sacrifice has purchased this land of liberty—

"Where the air is full of freedom
And the flag is full of Stars."

THE states which uphold Liberty and Democracy outrank all other states in progress, peace, and prosperity.

A RULER who permits no opposition to his sovereign will sets himself up above God.

HE who has nothing in his life worth dying for, has nothing worth living for.

IT takes more courage to live by the Constitution than to die for it.

NO public official refuses to take the oath to preserve and defend the Constitution, but few are willing to honor it in their practice.



The True Sphere of Civil Government

Absolute Freedom for All in Religious Opinions and Worship

by A. R. BELL

CIVIL GOVERNMENT, the state, is ordained of God; its laws (should) pertain solely to man's relation with man in temporal affairs.

The church is ordained of God, set in the world under God, for the saving of the lost; and all its laws (should) pertain only to those relationships which men sustain to each other and to God.

Civil government is set in the providence of God to keep men civil in their relations with one another, and pertains only to men.

Religion, the church, is set in the providence of God to deal only with salvation from sin, saving men from it. Religion is an experience of the heart. It is a personal relation between man and his Creator. All of religion's customs and usages belong to the realm of conscience, a realm in which the state, civil government, can never rightfully function.

The work of the church is to persuade men to be reconciled to God. The gospel, which is given to the church to minister to men, has no other legitimate power than the power of love. In no sense whatever is the church to enter the realm of the state. By Him who ordained both civil government and the church, the law has been handed down, for the guidance of each, which reads: "Render therefore unto Caesar the things which be Caesar's, and unto God the things which be God's." Luke 20:25.

Should the church and the state hew to the line in their Heaven-appointed spheres of action, each performing its own work, separate and distinct the one from the other, then liberty in its full measure would be enjoyed by all.

Force belongs to the state, and carries with it bonds and imprisonment. Persuasion, backed by a love unfathomable, belongs to the church.

An opinion handed down by the supreme court of Ohio reads: "True Christianity asks no aid from the sword of civil authority. It began without the sword, and wherever it has taken the sword, it has perished by the sword. To depend on civil authority for its enforcement is to acknowledge its own weakness, which it can never afford to do. It is able to fight its own battles. Its weapons are moral and spiritual and not carnal. True Christianity never shields itself behind majorities. A form of religion that cannot live under equal and impartial laws ought to die, and sooner or later it must die."

Take the matter of Sunday laws. Sunday is an institution of the church. It is a religious institution. Take religion out of Sunday, and there will be nothing in it. Take religion out of a Sunday law and there will be no Sunday law. A Sunday law is a confession that Sunday "cannot live under equal and impartial laws."

A Sunday law means that the church has left the Heaven-appointed path. The proper petition for Christians begins: "Our Father, who art in heaven," and not, "The Honorable City Council," or, "The Honorable State Legislature." We can rest assured that when the voice of the church is heard in the city council chamber or the State legislature, or the national Congress, asking for laws to sustain its practices and institutions, and to enforce them upon others, it is silent in the courts of heaven.

The church under the guidance of the Holy Spirit has no other power to use than the power of persuasion. The church is in the world to save men, not to enforce law on them to compel them to keep Sunday. The church, through a Sunday law, is using the power of the state,—police power,—to which she has neither right nor title, and the use of which degrades her.

When the state compels men to keep Sunday, it joins hands with the church to enforce a religious, a church, institution—a wicked, unconstitutional enforcement. In addition to this, it is class legislation. The state, or any community in the state, cannot select a certain day as the Sabbath and enforce its observance, without discriminating in religious matters. When we permit the state to do this, we virtually surrender our right to choose our own religion; and further than this, it would mean that we have given up our right to change our belief and practice should the time ever come when we would want to.

And yet, while these very truths are so self-evident, year after year, nearly every legislature in our land,

including the national Congress, is besieged by individuals and organizations clamoring for Sunday laws.

They may say: "Our motives are good, our objectives are worthy, and the end justifies the means;" but worthy motives have never justified an assault upon the freedom and the inalienable right of the individual.

It was Dr. Nicholas Murray Butler who, in a talk before the Commercial Club of San Francisco on the problems that confront democracy, said: "Liberty is the right to use one's intelligence in the shaping of one's own conduct, and no man, no body of men, can assail that intelligence, or the right to control that conduct, without undermining the very foundation of liberty."

It has been said, and very truly, that "a day, an hour, of virtuous liberty, is worth a whole eternity of bondage."

The poet Cowper wrote:

"Tis liberty alone that gives the flower
Of fleeting life its luster and perfume;
And we are weeds without it."

Friends of the Public Schools

Tax Funds Not to Be Used for Private or Religious Schools

by MRS. GRETA S. DEFFENBAUGH

Secretary of the
"Friends of the Public Schools"
Organization



FRIENDS of the Public Schools" a new organization which has opened headquarters in Chicago, has set out to organize on a national basis for the defense of public tax-supported education. Opposing the use of public funds for private schools, either sectarian or lay, the new group aims also to see that public-school policy is shaped by persons who believe in and understand the public schools.

The object of the Friends of the Public Schools organization is to obtain an intelligent and enlightened American citizenry having a self-respecting regard for the rights and opinions of others and the welfare of all. It believes that the public schools should uphold that which is true, honest, just, pure,

lovely, and of good report, and which makes for the upbuilding of good citizens. This organization believes that the individual who exercises the gift of religious liberty can enjoy that right only so long as he respects the equal rights of his fellow men and the common standards of morality. The American public-school system is the best instrument for gaining these objectives.

On the advisory board of the organization are men and women nationally prominent in fraternal, civic, parent-teacher, and other societies. This new organization, a product of seven years of preparatory work, is in the process of putting out branch organizations in the States. When these State branches are com-

pleted, they will be prepared to speak up in defense of the public-school system when any adverse legislative proposals are made.

As things now stand, legislation favoring private schools and sectarian groups is sometimes put through the State legislatures and city municipalities with but little organized opposition. Some of the States recently diverted public-education funds for free textbooks and free bus service to private and parochial schools. No sectarian influence of that kind should be allowed to exert itself in our public-school system. Any sectarian influence to obtain funds or to propagate religious teaching at public expense, should be opposed.

The "Friends of the Public Schools" organization is not opposed to private or religious schools. It believes that all persons desiring private schools for their own children should be permitted to have them and to manage and support them in any lawful way. Such schools, however, must not be supported at public expense.

From what has taken place during the last few years and what is contemplated by certain religious organizations which are seeking to obtain State and

municipal financial aid for the support of sectarian schools, free textbooks, and free transportation out of the public tax funds, it is high time that American citizens who believe in our public-school system of public education arouse themselves, or one of these days we shall awake to find that our tax funds, set apart for the support of our public schools, have been dissipated and wrongfully appropriated for the support of sectarian schools.

A financial alliance between the state and the church is provocative of much evil, both to the state and to the church. Already questionable methods and devious ways are resorted to by some church leaders to obtain financial aid for sectarian-school children by indirect schemes, which would never succeed if the thing were done directly or openly. This is the most vicious kind of legislation, because it is a flank movement upon our American institutions, and contrary to our American ideals.

Every one who believes in the separation of church and state, and in preserving our public-school system free from religious invasion and domination, should raise his voice in protest against these unconstitutional incursions upon our tax funds.

Freedom of Speech in Democracies

by FREDERICK A. SCHILLING, Ph.D.

SINCE THE REPUBLICAN FORM of government presupposes freedom of speech as axiomatic, does it really need a defense? Logically speaking, it would not. Yet, throughout our country, public forums of citizens are being organized for the purpose of intelligent and frank analyses of and discussions regarding public questions. Perhaps this is symptomatic of a sentiment that there must be this kind of participation in matters politic lest such participation be curtailed and civil liberty conceivably perish in the end. Should it be that such misgivings have actually been felt, it may also be known that they are not without foundation.

What should be the necessity for these many and imposing discourses and declarations, pro or con, regarding what has appeared to be the axiom of freedom of speech in a democracy? Would they not really seem to give indication of some subtle undercurrent



of intolerant thought on the one hand or possibly of a radicalism and license in speech on the other, both of which threaten to break forth into a violent eruption jeopardizing the exercise of that civil right? That such is the case we can easily recognize in foreign and even domestic affairs. In some quarters freedom of speech has been abolished by governmental decree, while, in other instances the abolition of freedom of speech has been brought on by the articulate but irrational sentiment of the masses. Indeed, national crises have a way of causing mass hysteria in which individual liberties are suppressed. Wars are such instances, but equally also, the so-called "war in peace" concerning which not a little has been heard of late, and it should be remembered that in our complex civilization it is impossible to eliminate the effect of past events or to achieve an airtight insulation against foreign influences.

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Hyde Park, London, England, With Its Spacious Grounds, Affords an Ideal Resort for Large Political and Religious Gatherings, Where Every Sort of Issue Is Fully and Freely Discussed Without Hindrance From the Police. It Is Noted as a Place of Free Speech

Strictures in Time of War

How well do we remember the strictures placed upon public speech during the period of our participation in the World War! And the most drastic of these were applied by public opinion even upon perfectly harmless language. That war psychology gave birth to the enactment of anti-free-speech laws in thirty-four States, since 1917. While the original purpose of these laws was to control and eliminate sedition and criminal syndicalism, it is apparent that they may lend themselves to applications exceeding in the limitation of speech the intent of their authors. The tendency toward legislative restrictions on freedom of speech has other ramifications. Out of the depression crisis and the drastic measures taken for the purposes of saving the situation, emerged a spirit which wished to find in emergencies the justification for the employment of extraordinary powers which would brook no resistance and would regard public criticism under the caption of sedition. The "crack down" tactics of the blue eagle were definitely tending toward the restriction of free discussion in newspapers; and strange enough, even a code for the churches was proposed. Outside of our country it is now not uncommon for freedom of speech to be abolished. The philosophy of some states regards freedom of speech as a vice rather than as a virtue.

Two observations at this point may serve to clear the ground for what follows.

None other than Abraham Lincoln justified the suppression of free speech in the face of serious emergency, and did so by arguing: "I can no more be persuaded that the government can constitutionally take no strong measures in time of rebellion because it can be shown that the same could not lawfully be taken in time of peace, than I can be persuaded that a particular drug is not good medicine for a sick man

which is not good for a well one." This logic would seem invulnerable, but its implications are dangerous to the democratic theory of government which Lincoln himself so classically enunciated. Does democracy cease in a national crisis? Whose is the right to declare war? Surely, in war the people are not the ones who have become sick and are in need of a doctor to prescribe heroic medicine for them. If a government is in need of the public's counsel and representation in peace, what makes that unnecessary in war? If free speech is normally a wholesome thing serving to direct a nation helpfully, why should it not be desirable when the nation is in a state of ill-health? Is it not true that crises may arise of equal danger to a nation though no state of war exists, and is then the suspension of ordinary civil liberties, among them free speech, justified? If so, when may freedom of speech flourish? Obviously, any situation could be construed as in need of emergency measures, and the logical upshot of such reasoning would be a corporate state.

Wars Won Without Suppression of Free Speech

On the other hand, a war can be won without the suppression of free speech, i.e., of a free speech which is not actually treasonable by being a deliberate communication of information to the enemy. Rupert Hughes tells of having lived in England when that country was at war with the Boers. "Hyde Park," he writes (1927), "has always been sacred to free speech, and one afternoon I saw an old white-bearded pacifist denouncing the government for attacking the Boers. He would have been lynched in this country for the same conduct during any of our wars. One half-drunk soldier, just back from South Africa, grew so indignant that he began to call the old man names. The crowd at once protested and roared, 'Fair pl'y! Fair pl'y!' and let the old man talk himself out. England won the war without checking freedom of speech." The classicist among historians, Athenian Thucydides, put into the mouth of Pericles an undying eulogy of his city's democracy: "Although domestic affairs absorb much of our time, we pay assiduous attention to our politics, and among all the calls of business we are well versed in the art of statescraft. . . . We can either criticize others' proposals or formulate our own; since to us discussion is no obstacle to action, but action without discussion can have no possible chance of success. For herein lies our gain, that we bring to the battle not only an unequalled courage, but also the advantage of previous debate." The survival of Athens over Sparta justified the wisdom of the Periclean point of view.

Despotisms, ancient and modern, have developed along almost invariable lines and manifest phenomena which are instructive to those who are concerned about

civil liberties, especially about that of our present subject. Repressive of free speech as these despotisms are, they all had their genesis at times when free speech was permitted. Taking free advantage of that freedom, and loudly demanding the right of it, if at any time a threat against it appeared, they finally created incidents which could be turned to their advantage and upon rising into power suppressed those very liberties which they had formerly claimed for themselves. I cannot help but cite Thucydides once more in an observation regarding the rise of tyrannies (e.g., the kind that caused the downfall of Athens) which is strikingly contemporary in significance. "Thus the class war led to a complete moral breakdown throughout the Greek world. Sincerity, one of the chief elements in idealism, was laughed out of existence; and a spirit of suspicious antagonism prevailed. Conciliation could find no basis, seeing that pledges had lost their validity and oaths their sanction. Men relied solely upon a despairing resolve to take nothing for granted and security was sought by precautionary measures, not by mutual trust. Inferior intelligences usually had the best of it; for consciousness of their own inadequacy and the dread lest an opponent's quicker wits or superior powers of speech would enable him to get his blows in first, inclined them to ruthless action." This fine commentary strongly hints at that psychosis which is behind the political philosophy of suppression.

The Concept of a State God

The nations of antiquity had developed with certain universal presuppositions. Among these were the slavery of the majority, and a religious sanction taking the form of either a city-state or national cult on the one hand, or on the other, associations of deity for the ruler. Obviously, in those monarchies, where the king was the incarnation of Ra, or the divine genius of his empire, or the representative of Asshur, public participation in matters of government was precluded by the simple fact that the decrees from the throne partook of the essence of oracular utterances. In the centuries which we call the Middle Ages and which represented the implanting of the Roman imperial ideal upon European territories, the ancient concept was refined into an abstract yet practically out-working world view, through the scholastic application of a synthesis between Aristotelianism and a theological interpretation of the universe centered around the concept of the "State God." The religious presupposition persisted with its implication of regal "divine right." *Imperium* and *sacerdotium* were congruent. The philosophy of realism defined the nation as a universal, that is, a metaphysical entity, in which the individual personality was completely submerged. Furthermore, on that view no improvement could be made in the existing

state of things; for whatever was, was right. Scholars and thinkers had only one function, namely, to justify and approve of things as they were.

This political theory has its outcropping in the contemporary philosophies of corporate states and other intensive forms of nationalism. Here we have notions of graduated degrees of citizenship; government by decrees which know no free reactions in speech by citizens, and which tacitly, at least, imply the claim for themselves of oracular revelation or the equivalent thereof; and even the religious sanction, be it the church which Fascism appropriates for itself (though they are by no means synonymous), or a Teutonic religion to embrace all Germans, or a national Shinto, or a Soviet antireligion which, after all, manifests itself with all the psychological symptoms of religious fervor and actually employs cult practices, such as the public display of the embalmed remains of its founder. Apropos of this I quote the trenchant analysis of the situation made by Dr. Nichol Macnicol of Edinburgh, formerly Wilde Lecturer on Natural and Comparative Religion in Oxford University, in a lecture delivered last year at Columbia University on "Religious Values of Contemporary Indian Nationalism." "What we see in the case of the violent and uncontrolled nationalisms that have arisen in so many lands, both of the East and of the West, in recent years is that they take to themselves in their arrogance the authority that belongs to God only and claim the supreme lordship over men's lives; such a nationalism has been transformed in large measure into a religion."

No man should exercise unlimited power until he is invested with unlimited wisdom.

When Will We Claim the Right?

Written by a Friend

WHEN will we rise and claim the right
That God has given to men?
When will we rise in all our might,
When will we rise, O when?

The two-faced tyrant, Hate and Greed,
Still rules the human race;
So all the masses are in need—
O curse his double face!

He is the one who foments strife,
He brandishes the sword;
'Tis he who is the foe of life,
'Tis he who fights the Lord.

O that the race of mortal man
True liberty might gain;
And freedom come in every land,
All-hallowed by God's name.

Dangerous Bills Pending in Congress

MORE THAN A SCORE of resolutions and bills are now pending in Congress which aim to deprive the Supreme Court of the United States of the prerogative of declaring a single act of Congress unconstitutional. More than 150 bills and resolutions are pending which aim to alter the Constitution fundamentally. One bill is pending, entitled H. J. Res. 519, which if enacted into law would declare "all papers, pamphlets, magazines, periodicals, books, pictures, and writings of any kind, and every article and thing designed or adapted or intended to cause racial or religious hatred or bigotry or intolerance . . . nonmailable matter." It subjects any violator of such a drastic law to "be fined not more than \$5,000 or imprisoned not more than five years, or both fine and imprisonment." Another bill entitled H. R. 8350 declares "that any native-born citizen shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or by both such fine and imprisonment, if such citizen—

"(1) Advises, advocates, or teaches, or causes to be taught, advised, or advocated, or who is a member of or affiliated with any organization, association, society, or group that advises, advocates, or teaches, or causes to be advised, advocated, or taught, principles of government based in whole or in part upon opposition to or discrimination against individuals of any particular race or religious creed.

"(2) Writes, publishes, or causes to be written or published, or knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or knowingly has in his possession for purposes of circulation . . .

"(3) Knowingly gives, lends, or promises to give or lend, money or anything of value to be used for any of the purposes specified in paragraphs (1), (2)."

If either of these two bills were enacted into law, the United States would be transported back to the Dark Ages of medieval times. Freedom of speech and of the press would be as completely destroyed as it is at present in the totalitarian governments of Europe. If such a law were to be impartially enforced, it would not only destroy the freedom of the press and of speech, but would practically confiscate the property of every church member as well as of every secular organization which in any form said or published anything that might be construed "to cause racial or religious hatred, or bigotry, or intolerance," or which was "based in whole or in part upon opposition to or discrimination against individuals of any particular race or religious creed."

The right to disagree with another religious creed and to teach principles of government adverse to our present system of government and adverse to religious creeds, has always been recognized as a fundamental right under our Federal Constitution. This bill would completely destroy the free exercise of religious opinions, as well as religious liberty itself.

If impartially enforced, it would bar from the mails practically every religious periodical now in circulation. Where are there religious periodicals which do not believe that they are right and that others which differ with them are in the wrong? Naturally all such periodicals do "directly or indirectly, incite to racial or religious hatred or bigotry or intolerance," all of which is prohibited in this joint resolution now pending in Congress.

Another bill entitled H. J. Res. 528, proposes to abolish the time-honored weekly cycle of seven days and to change all our religious days so as to cause them to fall on other than their fixed days in our present calendar. Thus religious customs would become unstabilized and movable in the future if the "blank" or "zero" day calendar were adopted in the United States, and would put us out of harmony with the rest of the nations. Some Congressmen are obsessed with the idea that they have a prerogative, when elected by a popular vote, to legislate upon every subject under heaven and to change everything that has come down from the past. The idea that anybody should interpose an objection to anything they propose to do is beyond their comprehension. The fact that they are elected to the highest lawmaking body in the land seems to imbue a few of our Congressmen with the idea that they are empowered to regulate all the activities of all mankind in both civil and religious matters. Fortunately for the people of the United States, there are comparatively few of such men in Congress. The rest of the Congressmen still adhere to the American ideals of civil government and believe that the Constitution of the United States has placed definite limits upon their legislative powers, beyond which they cannot pass. Let us hope that this majority, in both major political parties, may be continued in Congress, and that the people may not be deprived of their inalienable rights as vouchsafed to them under our matchless Constitution.

It will be a sad, sad day when the people can no longer flee to the Constitution and to the Supreme Court as a final refuge. All who cherish their constitutional liberties in America, should send a vigorous protest to their Senators and Representatives against these un-American measures now pending in Congress.

C. S. L.

The History of Sunday Legislation

Part Two—From the Puritan Period to the Nineteenth Century

THE FIRST SUNDAY LEGISLATION in the Massachusetts Bay Colony was in 1629. This ordered the cessation of all labor on "every Saturday throughout the year, at three of the clock in the afternoon," and the spending of the rest of that day in "catechizing and preparation for the Sabbath, as the ministers shall direct." In 1644, among the answers of the reverend elders to certain questions propounded to them, they agreed that "any sin committed with a high hand, as the gathering of sticks on the Sabbath day, may be punished with death, when a lesser punishment might serve for gathering sticks privily and in some need." The first draft of certain laws for this colony made "profaning the Lord's Day, in a careless or scornful neglect or contempt thereof," a capital crime. This form of the law was erased from the code as finally adopted. In 1679 the General Court of Boston set a special guard "from sunset on Saturday night until nine of the clock or after, between the fortification and the town's end," with instructions not to permit any cart, footman, or horseman to pass out of the town, except upon such necessity as the guard deemed sufficient. Those who disregarded the challenge of the guard were proceeded against as "Sabbath breakers."

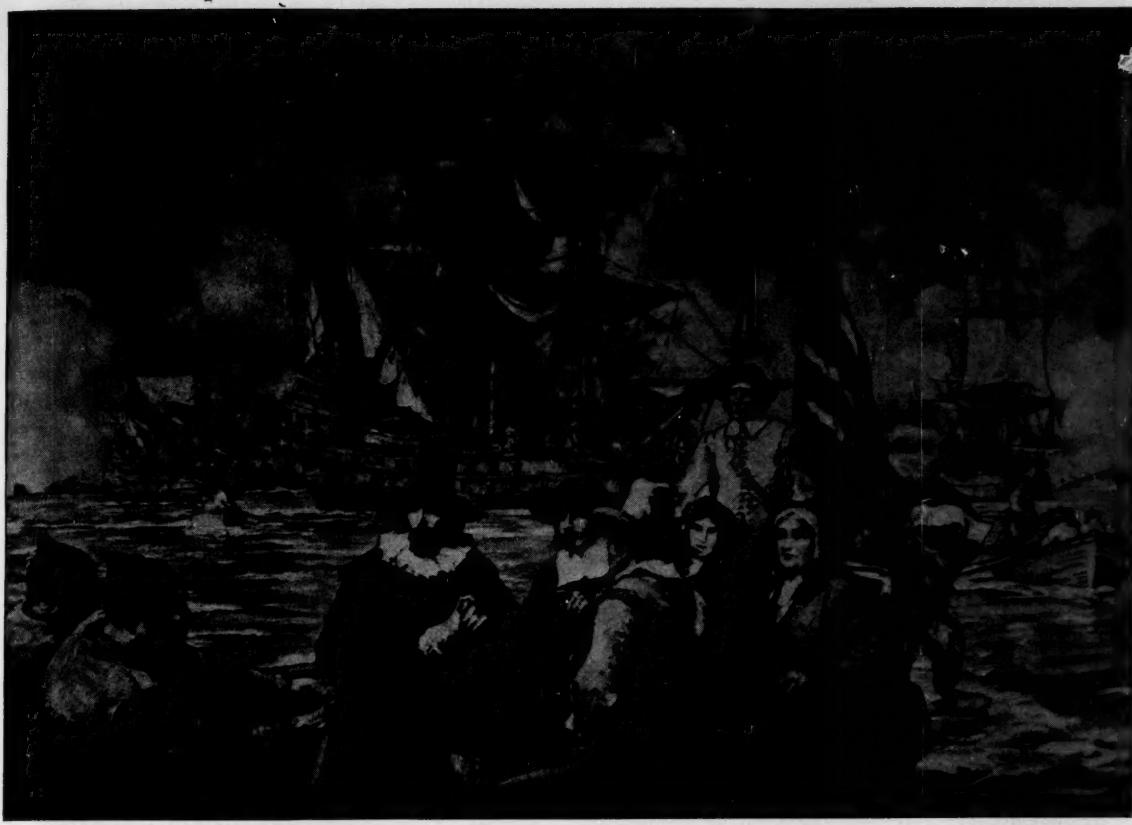
Sunday legislation in the New Haven Colony began in 1647. It forbade all work from sunset to sunset, with punishment according to the judgment of the court. About this time, also, profaning Sunday, "either by sinful, servile work, unlawful sports, or careless neglect, was punished by fine, imprisonment, or whipping," and upon evidence that the "sin was proudly, presumptuously, and with a high hand committed, against the known authority of the blessed God, such a person therein disobeying and reproaching the Lord shall be put to death, that all others may fear and shun such provoking and rebellious courses." In the colony of Connecticut there were at first no special statutes concerning Sunday. The code of 1650 punished burglary or theft, "in the fields or in the house, on the Lord's Day," by the loss of one ear for the first offense, and the second ear for the second offense. For the third offense, "he shall be put to death." These requirements were often repeated, being enlarged or changed in minor particulars.

Sunday legislation in the colony of Rhode Island was less severe than in those already noticed; but there was a general prohibition of labor, gaming, shooting, drinking, etc. In the colony of New Netherland (New York) in 1647, the dictator issued a proclamation against "Sabbath breaking, brawling, and drunkenness." In the colony of Pennsylvania the early Sunday legislation was much more lenient than in New England. Virginia led in Sunday legislation, although that legislation never reached such extreme features as were common in New England. The Sunday laws of New England were not a dead letter; many examples of punishment for "Sabbath breaking" are on record, though the majority of cases were tried in the lower courts, concerning which no record remains.

Legislation of the States

The Sunday laws of the colonial period passed into the legislation of the States, but in most instances were considerably modified. Naturally the Eastern States, where colonial influences had been strongest, retained more of the rigid features of the earlier laws. The influences connected with the Revolutionary War diminished religious regard for Sunday in no small degree, and the stricter features were gradually eliminated from subsequent legislation. The Sunday laws of the Western and Southwestern States are slight in extent and mild in requirements, when compared with earlier legislation. This is still more marked in the Territories. Arizona has no Sunday laws, and Colorado and Wyoming scarcely more than fragments; while the former law of California, though mild, was wholly repealed in 1883. Louisiana had no Sunday law until 1886, and the original law of Massachusetts was so amended in 1887 as to make it extremely liberal. In general, the Sunday laws forbid ordinary employment—works of necessity and mercy excepted—and in a greater or lesser degree, sporting, gaming, fishing, and hunting.

But the legal status of Sunday in the States is very different from the actual. For many years past, the Sunday laws have been nearly or quite inoperative. Aside from excise legislation, little is done to enforce existing laws. All serious efforts to do so, even against liquor selling, have, in most instances, been check-



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F. C. YOHN, ARTIST

Governor John Winthrop Arriving at Salem, June 12, 1630, With a Fleet of Eleven Ships and the Charter for the New Colony

mated by the attempt to enforce the provisions against traveling, and other secular occupations that have become almost universal. Thus opposed, those who have sought to enforce the law in one particular have soon desisted, and the execution of the law has failed. The history of this practical decline in the execution of our Sunday laws shows a marked change in the public opinion concerning the religious status of the Sunday; nor can any one seeking to analyze the causes that have produced the history here outlined, make such analysis successfully without a careful and extended consideration of the religious features of the case.

For more than twenty years past, preparation has been made for an epoch in the history of Sunday legislation in the United States, which has appeared, definitely, within the current year. The National Reform Association, organized to secure a recognition of the name and authority of God and Christ in the national Constitution, has included in its mission the work of reviving and securing the better enforcement of existing Sunday laws, and the enactment of more stringent ones. The National Women's Christian Temperance Union has lately entered into this movement with great zeal; and, still later, individuals in

religious circles have joined in the movement, by organizing the American Sabbath Union. In May, 1888, a bill was introduced into Congress by Senator Blair, of New Hampshire, proposing national legislation which forbids all secular business and work on Sunday, in all places under the control of Congress, such as the postal service, the Army and Navy, the Territories, and in interstate commerce. At the present writing this bill is in the hands of a committee which has granted two public hearings to the advocates of the bill, in one of which the opponents of the bill were also recognized. This movement is a radical departure from the historical policy of the United States concerning Sunday legislation. The friends of the bill claim that it is necessary, since State legislation is of little value, while the nation, in its corporate capacity through the Post Office Department and otherwise, continues "to be the greatest Sabbath breaker;" that State laws against commerce and traveling are insufficient, and hence Sunday legislation must continue to be a failure, unless Congress assumes control of all such matters, under the general provisions of the Interstate Commerce Act.

The history of this movement includes two prominent features. It involves more extended efforts, and

more nearly national organization in its favor, among the religious people of the United States than any similar movement in the history of the nation. Through their efforts, "the workingmen," so called, and especially representative organizations in which these are combined, are petitioning Congress for the passage of the bill. The friends of this movement claim that the Roman Catholics of the United States have united with Protestants in support of the Blair bill. Those who advocate its passage on religious grounds, insist that they do not wish to deal with religion directly, but desire the passage of the law for its indirect effect. Nevertheless, the bill avows a distinctly religious character, as is shown by its title: "A bill to secure to the people the enjoyment of the first day of the week, commonly known as the Lord's day, as a day of rest, and to promote its observance as a day of religious worship." The history of this movement also includes an unprecedented interest and agitation on the part of the people in the various phases of the Sunday question. The Blair Sunday-Rest bill expired in the hands of the Committee, in March, 1889.

General Results of Sunday Legislation

It is impossible to trace the results of Sunday legislation in detail in different periods; but some general results appear in the successive laws. Prominent among these is the fact that legislation has not secured religious regard for Sunday. Neither has legislation been strictly enforced and sustained in any period when there was not high religious regard for Sunday. The general effect has been, rather, the development of Sunday as a holiday; the character of this holiday varying with the state of civilization, refinement, and general culture. The verdict on this

point, as shown in the results connected with the stringent legislation of the Puritan period, both in Great Britain and in the United States, is emphatic and important. Such legislation has always been lightly regarded by the irreligious. In spite of all stringent legislation, the strictness required under the Puritan regime declined rapidly in England, and steadily, though perhaps a little less rapidly, in the New England colonies, where such legislation passed through a searching historic test.

In many instances the history of Sunday legislation shows that enforced abstinence from legitimate business has increased objectionable holidayism on the part of the irreligious. Another fact is clearly set forth in the history of this legislation, especially in modern times, viz., that the more carefully men have studied the history of such legislation and its philosophy, the less eager have they been in its support; if, indeed, they have not wholly discarded it. The discussions of the last few years, and in some instances the decisions of courts, have sought a new basis for Sunday legislation in the needs of society and of individuals, apart from religious considerations.

Many now deny the right of the civil law to touch Sunday in any way as a religious institution, and admit only the right to consider it as a legal holiday, on hygienic and economic grounds. See Irmischer's "State and Church Ordinances Concerning the Christian Observances of Sunday" (Erlangen, 1839), and Lewis's "Critical History of Sunday Legislation from 321 to 1888" (New York, 1888).—Appleton's Annual Cyclopaedia and Register of Important Events of the year 1888. New Series, Vol. XIII, pp. 748-752. New York: D. Appleton and Co., 1, 3, 5 Bond St., 1889.

Vermont Invokes Sunday Laws

ATTORNEY-GENERAL LAWRENCE JONES, of the State of Vermont, authorized the closing of two opera houses in Bellows Falls, where more than 2,000 persons were in attendance on Sunday, where shows were given specifically for the benefit of a crippled children's fund. The theater manager, Raymond A. Kiniry, claims that he is not violating the Sunday law, as it allows works of "necessity and charity" on Sundays.

The Sunday after Mr. Kiniry was arrested, more than 500 complaints were filed at police headquarters in Bellows Falls, Brattleboro, and other towns in the county, of residents who had violated the State's 160-year-old Sunday blue law forbidding all unnecessary

work on Sunday. The druggists were not allowed to sell anything but prescriptions made out by doctors for patients. One druggist hung a crepe on his door-knob, indicating that "liberty had died" in Vermont. Another druggist shouldered his old musket and marched through the streets of Bellows Falls, and said, "I'd like to find some Indians, and give this country back to them." They protected Roger Williams when he was persecuted, and became the conservators of liberty, instead of the white man.

The following Sunday, others got out their old muskets and marched to the State officials and asked for ammunition for protection against the redskins. The Sunday blue laws which required everybody to

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The Colonial Laws Requiring Church Attendance Also Authorized the Carrying of Firearms as Protection Against the Indians

go to church on Sunday, also authorized them to carry their muskets to church and to apply to the State officials for ammunition for protection against Indian attacks. These antiquated laws have never been repealed. These laws also forbid a man's kissing his wife in public on Sunday. The State's attorney said: "Although officials are on the watch, we have not yet detected a man kissing his wife in public—that is a breach of the peace, you know."

"I know it's all ridiculous," said the State's attorney, "but it's the best way I know to remove these antiquated laws from the books."

The oldtime Sunday blue laws which are still unrepealed go so far as to forbid any one's crossing a river on Sunday except a clergyman. When we realize that the clergymen of New England were the framers of these laws, we can readily understand why these exceptions were made in their favor. They did not think it "necessary" for anybody else to cross a river on Sunday. Travel, cooking, making beds, sweeping houses, cutting hair, shaving, bathing, and boot blacking were all prohibited as unnecessary and criminal offenses on Sunday. Even kissing of children, and husbands and wives kissing each other, were prohibited, and husbands were both fined and put in stocks for kissing their wives publicly on Sunday, even as a greeting after a long absence from home. The legal phrase "only works of necessity and charity shall be permitted on Sunday" included a multitude of prohibitions, according to the religious fervor of the public officials.

A large per cent of the people of Vermont were incensed at the State's interference with Sunday shows so long as they are educational and given on Sundays expressly for charitable purposes.

The Rutland *Herald* has the following to say about the Sunday blue laws, which are only spasmodically enforced in Vermont:

"The rigid Puritan ethics bequeathed by Cotton Mather and his ilk to all their heirs and assigns generations ago in New England have not lost their force or their peculiarly blue-nosed features, as is evidenced by the latest Sabbath crisis to arise in Bellows Falls over the issue of Sunday movies. Witches are no longer burned [hanged] in town squares, but sparks from those selfsame stakes have burned their way into the consciences of latter-day legislators.

"Section 8706 of the Vermont statutes states: 'A person shall not between 12 o'clock Saturday night and 12 o'clock the following Sunday night exercise any secular business or employment, except works of necessity and charity, nor

engage in any dance, nor shall a person promote or engage in any play, game, sport, or entertainment during such hours for which admission is taken or for which any compensation is received, directly or indirectly, or which disturbs the peace' . . .

"The net effect of this law has been to send gay dogs, rounders, and those in search of after-midnight amusement, posthaste over the border to New York State and Canada where local hostleries stay open until 3 o'clock in the morning. The same ban which is extended to movies may extend to the sale of newspapers and gasoline, could effectually be interpreted to prevent Sunday driving for pleasure, and could send an innocent couple, swinging to a radio tune in the privacy of their home, to the stocks, students of the laws have found.

"The statute, written in 1777, has raised its hoary head more than once in Vermont, but in many respects has never been strictly interpreted. Sunday newspapers are not bootlegged furtively into homes, and grocery stores and similar places of business have not as yet instituted peep-holes and passwords for customers in search of an illicit loaf of bread or a dozen contraband eggs. Ski meets, and other winter sports for which admission is charged, would be anathema, and cigarettes, cigars, candy, and other such sundries would be *verboten* according to law."

The history of Sunday-law enforcement reveals that our Sunday laws are the most irregularly and spasmodically enforced laws of any upon the statute books. The reason for this is that they are relics of a dead past, and are purely religious in character. They do not prohibit a single act that is criminal *per se*, but only what are considered nonreligious acts. A Sunday law in every case prohibits only acts which are considered perfectly honorable, civil, and legitimate on other days of the week, and this fact alone proves Sunday laws religious and religious only. All crimes and other uncivil actions are covered by other than Sunday-observance statutes.

Another thing that the student of law and court procedure has discovered concerning the enforcement and enactment of Sunday-observance laws, is that in every case which has come before a court, and every Sunday bill which has come before a legislative body for enactment, the motives which have prompted the enforcement, as well as the enactment of such laws, were unmistakably based on religious bigotry, intolerance, jealousy, revenge, selfishness, animosity, the desire to persecute nonconformists, and religious egotism. When State's Attorney Berry attempted to enforce the Sunday law of Vermont, against the theater manager Raymond A. Kiniry, and against a news-store proprietor and a service-station proprietor, he found that the juries refused to find them guilty, and thereupon he *nol-prossed* some 1,500 other cases that were pending, saying it was "apparent public sentiment was not behind the blue laws. . . . I have felt all along that the blue laws should be removed from the statute books, which was my real reason for going as far as I have in my attempt to enforce them."

How long shall such un-American laws be al-

lowed to afflict and persecute free citizens and subvert the constitutional provisions which guarantee the free exercise of the conscience of the individual in all religious matters? It is high time our lawmakers and our court officials repealed or declared unconstitutional such antiquated, anti-Christian, anti-Jewish, anti-American, and anti-common-sense laws, which are destructive of every fundamental principle of our constitutional liberties guaranteed to each citizen.

C. S. L.

The Whence, the What, and the Why of Our Constitution

(Continued from page 7)

called by the name of 'The United Colonies of New England.' From that title naturally evolved our present title, "The United States of America."

"Article 2: That the said United Colonies for themselves and their posterity do jointly and severally hereby enter into a firm and perpetual league of friendship and amity for offense and defense, mutual advice and succor . . . for their own mutual safety and welfare."

In this confederation these colonies entered into a "firm and perpetual league of friendship." In the Articles of Confederation, the compact is called a "firm league of friendship." This was in 1643. In the Federal Constitution, the compact is called "a more perfect union."

The chief object in view, as expressed in the New England Confederation, was to provide for their own "mutual safety and welfare." In the Federal Constitution, among the purposes declared is to "provide for the common defense and promote the general welfare."

Article 3 of the New England Confederacy recognized the governmental sovereignty of the several colonies, providing that "each of the colonies shall have peculiar jurisdiction within their limits," and this article carries a provision of limitation upon the colonies strikingly similar to that carried in the Articles of Confederation and in the Federal Constitution.

The New England Confederation provided: "Nor shall any two of the confederates join in one jurisdiction without the consent of the rest." The Articles of Confederation provided that without the consent of Congress "no two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue." The Federal Constiti-

tution provides that "no State shall without the consent of Congress . . . enter into any agreement or compact with another State."

Article 4 of the Confederation provided for defraying the expenses of all "just wars" by the members of the confederacy without regard to which colony the war "fell on."

Article 8 provided for commissioners to frame and establish agreements and ordinances in which all were interested, such as "the free and easy passage of justice in each jurisdiction to all the confederates equally," "receiving persons from one colony to the other freely and for the delivery up of fugitives from justice."

Article 9 provided that neither colony, except on sudden exigencies, should engage in war without the consent of at least six commissioners, there being eight commissioners in all.

This confederation was framed one hundred thirty-three years before the Declaration of Independence and the drafting of the Articles of Confederation, and one hundred forty-four years before the Federal Constitution was framed. Only six years less time intervened between this confederation and the framing of the Federal Constitution than has passed since.

The New England confederation did not last very long, but the governmental conceptions there made manifest did last long. They were preserved not in books alone, but in the governmental instincts of a homogeneous people. They awaited only the urge of a new necessity in order that there might be a renewed manifestation. This necessity came one hundred twenty-two years later.

Objectives of American Revolution

Shortly before the Revolution there were important conventions held by the people. Events were moving them toward the rupture with the government of which they were then a part. The resolutions then adopted show clearly that the colonies did not fight the battles of the Revolution to get a Constitution. They fought to preserve to themselves the constitutional rights which they claimed and had always claimed. They declared to the world that King George III and his Parliament were violating *their Constitution*. In the Stamp Act Congress, October 19, 1765, after resolving that they were entitled to all the privileges of Englishmen, and that they could not from local circumstances be represented in the House of Commons, the colonists resolved: "That all supplies to the Crown being free gifts of the people, it is unreasonable and inconsistent with the principles and spirit of the British Constitution for the people of Great Britain to grant to His Majesty the property of the colonists."

In the proceedings of the Town of Boston, October and November, 1772, it was resolved among other things that: "These [the British] officers are by their

commission invested with powers *altogether unconstitutional*, and entirely destructive to that security which we have a right to enjoy. Fleets and armies have been introduced to support *these unconstitutional officers* in collecting and managing *this unconstitutional revenue*, and troops have been quartered in this metropolis for that purpose."

Next in our documentary and formal governmental evolution and development came the results of the proceedings of the Continental Congress, among the more important of which were a series of resolutions adopted, to which attention will later be directed, and the Articles of Confederation. It is necessary to a clear understanding, however, to bear in mind that these Articles of Confederation did not confederate the colonies. They were already in confederation. Prior to the Articles of Confederation, the Continental Congress which convened in 1774 had in October of that year adopted certain declarations and resolutions which foreshadowed the Declaration of Independence, just as the Articles of Confederation foreshadowed the Constitution and just as the "firm legal friendship" under the Articles of Confederation foreshadowed "a more perfect union" under the Federal Constitution.

The Continental Congress declared, in its declarations and resolutions, "That the inhabitants of the English colonies in North America by the immutable laws of nature, the principles of the *English Constitution, and the several charters, or compacts, are entitled*

to the rights of Englishmen and to the common law of England." May we suggest that you spend a few moments with that clause. Stop and read it, and reread it until you comprehend it. There is perhaps no other sentence in our language which has greater depth and height and breadth, or which holds within its dimensions substance of a richer nature, or which gives a clearer picture of a living people with a living constitution evolved under the laws of nature firmly rooted in their governmental concepts.

It was also resolved that "it is indispensably necessary to good government and rendered essential by the *English Constitution*, that the constituent branches of the legislature be independent of each other; that, therefore, the exercise of the legislative power in several colonies by a council appointed during pleasure by the Crown, is *unconstitutional, dangerous, and destructive to the freedom of American legislation.*" It will be noted that they were not complaining of a constitution from which this evil came. Their claim was that their constitution was all right, but that King George and his Parliament were violating their rights under that constitution. Finally, the Declaration of Independence declares, "He [the British king, George III] has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws; [note the language "our constitution" and "unacknowledged by our laws,"] giving his assent to their acts of pretended legislation."

Denies Individual Liberty Exists

THE New York Times of December 10, 1937, contained a news item of startling significance, alleging that a prominent government official of a certain European country, in addressing the students of a well-known European university, told them that no such thing as individual liberty exists. "There is no freedom of the individual," he said. "There is only freedom of peoples, nations, or races, for these are the only material and historical realities through which the life of the individual exists." The burden of his speech was an attempt to prove that so-called individuals are not even realities, but merely aspects of some community such as the race or nation, or a mere cog in a wheel in a machine. "Therefore," said the speaker in his conclusions, "it is absurd to even discuss individual liberty."

Evidently this representative of a totalitarian form of government has forgotten that before a nation or a community came into being the individual existed. God created in the beginning of things not nations or communities, but an individual. God in the be-

ginning gave the individual certain natural and inalienable rights which were never to be surrendered to any government or combination of men.

Since the individual existed before the government, it must follow that the government was created by the individuals in the beginning of government, and whatever prerogatives the government enjoyed were derived from and delegated to it by the individuals who first organized government. Naturally these individuals who first organized government for their mutual benefit would not have organized it for the purpose of destroying their natural rights, but to protect those rights against all aggressors. It is preposterous to conceive that these individuals would organize a government to enslave them and destroy their entity as individuals.

Government Derived From the People

There could be only one objective in organizing government in the beginning, and that was to make their natural and inalienable rights more secure.

Government derived all its power in the beginning from the people, for the individual preceded the government, and the government is his own creation.

Thomas Jefferson enunciated this fundamental principle at the time of the founding of the greatest government on earth, when he said: "Our legislators are not sufficiently apprised of the rightful limits of their power, that their true office is to declare and enforce only our natural rights and duties, and to take none of them from us. . . . The idea is quite unfounded that on entering into society we give up any natural right."

The American Republic when founded was the first government since man established government that recognized in its fundamental law that the individual has certain natural, God-given rights, which no government on earth has a right in justice to invade or abridge. It recognized that "all men are created equal" before the law and "that they are endowed by their Creator with certain inalienable rights," and "that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed," and "that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it."

Anything that man forms he can alter or abolish when it no longer serves the purpose for which it was created. Governments have been overthrown and their laws nullified, but the individual was still an entity and a reality when the government no longer existed.

A great American statesman, in defending the natural rights of the individual, said these rights "are not exercised in virtue of governmental indulgence, but as rights, of which government cannot deprive any portion of citizens, however small. Despotic power may invade those rights, but justice still confirms them."

A totalitarian government which believes it is supreme and absolute in all things, both temporal and spiritual, assumes that the individual has no rights which the government may not invade or abridge at its own discretion. Such governments recognize the individual merely as a cog in the wheel of a great political machine, absolutely subject to the dictates of the state. The individual surrenders all his rights, both God-given and acquired, to the state. He is a mere automaton of the state, a subject but not a citizen. He is not a free man, but a slave. He must think and express the thoughts of another, who is his master. His initiative as a rugged individual is destroyed. He exists solely for the state. That is the theory and rule of the tyrannies of all past ages. All totalitarian governments of modern times have adopted the same principle of government.

Founders Repudiated Totalitarianism

The founders of the American system of government utterly repudiated the totalitarian scheme of government of ruling all men in all things and proscribing the rights of the individual. They created a government which was deprived of all power to infringe upon the rights of the individual. The Bill of Human Rights, which became a part of the fundamental law of the land, bound all three branches of the government to respect the rights of the individual and not to infringe his liberties so long as the individual himself respected the rights of his fellow men. In religious matters the conscience of the individual was recognized as supreme so long as he did not use his religion as a cloak under which to hide when he was guilty of a crime.

The historian Bancroft very aptly stated the objectives of the American Constitution when he wrote: "Vindicating the right of individuality even in religion, and in religion above all, the new nation dared to set the example of accepting in its relations to God the principle first divinely ordained in Judea. It left the management of temporal things to the temporal power; but the American Constitution, in harmony with the people of the several States, withheld from the Federal Government the power to invade the home of reason, the citadel of conscience, the sanctuary of the soul; and, *not from indifference*, but that the infinite spirit of eternal truth might move in its freedom and purity and power."

Any government may invade and abridge the natural rights and liberties of the individual through sheer force of despotic power, but essential "justice still confirms" those rights.

c. s. l.

"Sentenced to Sermons" and "Religion in Public Schools"

WHOEVER APOSTROPHIZED that virtue with the well-known exclamation, "Consistency, thou art a jewel!" must have had in mind that its rarity greatly increased its worth.

We are reminded of how scarce consistency is by two articles which appear on the same page devoted to the "news digest of the month" in one of the country's leading religious journals. The first, entitled, "Sentenced to Sermons," sets forth principles for which LIBERTY stands, in a form that delights this editor's heart. The second, "Religion in the Public School," leads us to wonder how any man who reasons so clearly in one article could ever go so far astray in the other.

The first article refers to a motorist, who, on Sun-

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day, drove his car at fifty miles an hour across Gandy Bridge, the six-mile span between St. Petersburg and Tampa. A policeman arrested him. The following day the judge "sentenced him to go to church the next thirteen Sunday mornings, to tell the judge what the sermon was about the next thirteen Monday mornings." We agree heartily with the commentator when he says:

"There's nothing novel about the sentence; it has been used before by judges loath to send a petty offender to jail. If that is all the sentence is for in this case, we're for it; any church is better than any jail. But somehow we doubt the legality of it; with our whole heart we doubt the wisdom of it. The poor 'criminal,' crouching in his pew under the stares of a congregation that knows why he's there, isn't in any position to get much out of the sermon. No man condemned to church ever got much out of it. Religion isn't something to be choked down your throat; it is something that enters by way of the open door of the heart. . . .

"We'll never get them [people] into church by saying, 'You've got to go.' We'll never make them like a sermon by saying, 'You've got to listen.' We may have to lead children through their early years, before they are old enough to know what it's all about. But after that, we have to preach and teach so well that men will want to come. It is noticeable to some of us that preachers today who have something to say and who know how to say it are saying it to packed pews.

"Policemen's clubs will never change men's hearts or remold the face of the world. Christ is enough for that, without compulsion; enough, provided He is presented intelligently, and backed with an example."

The second article reports that the National Committee for Religious and Welfare Recovery suggests that there be a half hour of religious instruction every day in the public schools. This teaching is not to be given "by rabbi, minister, or priest, but by members of the regular teaching staff who have passed satisfactory teaching tests and been certified by the authorities of their respective faiths."

By some quirk of the mind our commentator approves of this course because "there are thousands, perhaps millions of children in this country growing to maturity without benefit of Sunday school, and getting little if any religious instruction in the home." We agree with him that "to educate without a sense of religious values is not to educate at all," but we deny absolutely that the state has any right to use the funds gathered by taxation from all the people to teach religion. We agree with President Grant's statement: "Leave the matter of religion to the family altar, the church, and the private school, supported entirely by private contribution. Keep the church

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and state forever separate." If using tax funds to teach the particular and peculiar beliefs of Protestants, Catholics, or Jews is not a union of church and state, what is it? If such a course would not lead to all the religious prejudices and bigotry of grown folk being transferred to the public-school grounds, then the children are much better than their elders. The fact that neither rabbi, minister, nor priest came to give the instruction, would in nowise remove it from the realm of a purely church function, because those who would be chosen to teach under such a plan must be "certified by the authorities of their respective faiths." This means two kinds of examinations for public-school teachers—one by the state and one by the church.

No matter how deplorable it is to have children growing up without teaching concerning religion, the evil is small compared to that which would surely follow the attempt to mix religion—all kinds of religious beliefs—with secular education. In the ordinary schoolroom there may be children from homes which represent a dozen different branches of Protestantism. From which body of these will the teachers be "certified"? The most numerous? Where then are the rights of minorities? Must children of Baptist parents be taught that sprinkling, not immersion, is Scriptural, because Episcopalians are in the majority? or vice versa? It is of no use to say that it is absurd to suggest such a thing. Great evils have come from smaller causes.

The fundamental law of our land provides that no religious test shall ever be made to determine one's fitness for a civil post. How does the proposal made by the National Committee for Religion and Welfare Recovery square with that sound provision? It doesn't. The whole plan has the merit of being an attempt to translate a pious wish into action. Against it is all the experience of the past—all that history has taught of the evils of a union of church and state. Let us keep them separate. Let us take alarm at the "first experiment upon our liberties."

H. H. V.

Reviving Ancient Blue Laws

THE REVIVING AND ENFORCEMENT of Sunday blue laws now on the statute books of many States of the Union seem to have broken out like a rash of late. Newspaper clippings from Columbus, Ohio, tell that a warning has been issued to Columbus merchants that they will be prosecuted for selling staple groceries on Sundays. The Retail Confectioners' Association, at which this fight seems to be particularly aimed, has threatened, if they are prosecuted for selling these staples, to inaugurate a campaign to close all kinds

of business, and they claim that this means nothing can be sold except medicine. They further promise that their opposition will not be confined to the city of Columbus alone, but that they will make it reach out at least to all of Franklin County.

It is strange that men can buy all kinds of cooked food on Sunday, but cannot buy raw food; can buy slices of bread in a restaurant, and cannot buy a whole loaf. As a matter of simple fact, if our friends who demand Sunday-law enforcement were as anxious for the welfare of those who labor as they claim to be, they would prefer to have raw food sold and cooked by those who are to use it in their own homes rather than to have cooks and waiters tied up all day in serving food on Sunday.

From Dallas, Texas, comes the word that agitators are urging that all food stores be closed on Sunday. Some of them, at least, are claiming that this should be done as a protection for Sunday. Not all of the good folk of that city are blind to the implication of such legislation. A letter from a reader to the editor of the *Dallas News* published on December 8 quotes these words from James Madison: "Religion is essentially distinct from civil government and exempt from its cognizance." This great truth cannot be stated too frequently.

In Salt Lake City, according to the *Telegram* of December 2, the barbers are petitioning the city fathers to close all the barbershops all day on Sundays and holidays. Utah would do very well to follow the example of California. There a "one-day-in-seven" law guarantees rest without involving religion in any way. If it is necessary for barbers to have one day of rest in seven to protect their health, why not make each shop close twenty-four consecutive hours every week without settling upon a day that can have no merit except it be religious preference. Religion, of course, can have no legitimate place in civil law.

A group of men working in Connecticut were charged with breaking the Sabbath. The warrants said they "did with force and arms do manual labor, the day being Sunday." It appears that the people of Southbury, Connecticut, cared less about Sunday observance than they did about preventing the building of a camp to which they objected. But the use of the old blue law shows how dangerous it is to have it on the statute books.

Comment on all these things is hardly necessary. Everybody ought to be able to see that as long as such statutes remain on our books, they may easily become instruments of persecution. Truly they are relics. The only fitting place for them is in museums, where they could be used as warnings, and reminders of the follies of those who once thought religion could be taught through civil statutes.

H. H. V.

The Bill of Rights

(Continued from page 9)

States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Experience Guided the Fathers

It was the objection of some, at the time when the Bill of Rights was under discussion, that no such safeguard was needed in a popular government. The President and Congress were but servants of the people, depending for their tenure of power upon the people's will, and hence not likely to encroach upon the people's liberties. In theory it sounded well; logically it was unassailable. But it was experience rather than theory which guided the Fathers; and experience had amply proved the truth of the warning that the possession of power, even in the hands of faithful servants of the people, tends to the assumption of more power. In a number of States the popular government had already encroached upon fundamental liberties. For example, between the years 1780 and 1787 citizens had been denied the right of jury trial in civil cases in New Hampshire, New Jersey, Rhode Island, and North Carolina. The General Court of Massachusetts had attacked the freedom of the press by a confiscatory tax. In Virginia and Pennsylvania the legislatures had passed bills condemning men to death or exile without benefit of trial by jury. In more than half the States, tender laws had deprived persons of property without due process. It was not alone the king's governors or royal officials who had offended by encroachments upon the liberties of Americans; their own governments had retained elements of the same political poison. And an "elective despotism" (as Jefferson phrased it) was not that for which the American colonies had fought.

Therefore the Bill of Rights was not a mere appendix to the Constitution, a predella to the main picture. These ten amendments are rather the heart and soul of the Constitution itself. They are much more important than any clauses specifying the age qualifications of Representatives or Senators or the process by which a bill becomes a law. They are the proclamation of fundamental liberties which no law-giver or administrator or judge may impair. They define the very object of a democratic constitution which, in the words of James Warren of Massachusetts in 1788, "is the preservation of that property which every individual of the community has in his life, liberty, and estate." They protect the people against the human frailty of its own government, the minority against the temporary passion of a willful majority, even the revolutionary radical against the censorship which would close his mouth.

It is only when we note how largely the original Constitution is concerned with setting up the framework of government and how rarely the guaranties of personal liberty are mentioned in it, that we realize the significance of the Bill of Rights. Read the Constitution carefully. See if you can find more than half a dozen clauses among all the details of governmental machinery which bear on the rights of the individual citizen. Art. I, sec. 9, pars. 2 and 3; Art. III, sec. 2, par. 3; Art. III, sec. 3; Art. IV, sec. 2,—these are all that I can find. But the Bill of Rights in the first ten amendments is wholly devoted to the protection of the life, liberty, and property of the American citizen. So long as its spirit and letter are obeyed by our public servants, the Constitution will endure. When it is forgotten or flouted, the end of our liberties will be in sight. It is the meat on which our democracy is nourished. It is in truth "the marrow of the Constitution."

Flag Saluting in the Schools

AFEDERAL DISTRICT JUDGE in Philadelphia has ruled that public-school officials may not expel children for refusal to salute the flag because of religious convictions. This was a vindication for the sect known as Jehovah's Witnesses, which deems saluting the flag of any nation a form of obeisance due only to the Almighty, and therefore a form of idolatry. Whether the attitude and belief of Jehovah's Witnesses are right or wrong was not the point for the judge to settle. The question he had to settle was whether religious convictions, right or wrong, should be respected in a country that guarantees religious freedom to all persuasions in its fundamental law. He decided that religious liberty was not derived from government and should not be abridged by the government, but that it should be protected.

The courts of California and Massachusetts have rendered similar decisions on this question of compulsory flag saluting in the public schools. If a few more State courts and Federal courts sustain similar decisions, it may put an end to the unseemly and embarrassing publicity to which the children of religious sects throughout the country have been subjected.

The judge rightly held that public officials have no right to determine whether an individual's acts are based on religious grounds. So long as those acts do not affect the public safety, health, or morals and do not interfere with personal or property rights, the court concluded, they do not justify exclusion of children from the public-school system. The judge's

logic seems not only reasonable, but consistent with the American ideals and fundamental principles of government. The American flag does not stand for intolerance, but for civil and religious liberty for each individual. The wonder of wonders is that any public-school board in the United States should need to be reminded by the courts of this universal constitutional guaranty of religious freedom before working out a solution for this relatively simple and obvious problem in public-school management. Compulsory patriotism and enforced religion are plants which do not thrive in American soil. C. S. L.

Our Growing Circulation

WE are sure that our readers, the friends of the principles for which we stand, will be pleased to know of the increasing interest that is being taken in this magazine throughout the country.

Perhaps nothing illustrates better the place of usefulness that the *LIBERTY* magazine is filling than the enlarged circulation. Since we adopted our new form, with the First Quarter, 1937, the subscription list has grown rapidly. The printing order for the First Quarter of 1937 was 48,600; for the Second Quarter, 55,700; for the Third Quarter, 60,000; for the Fourth Quarter, 65,000, and for the First Quarter of 1938, 75,000. Since January 1 of this year nearly 15,000 individual subscriptions have been received. We have every reason to believe and expect that before 1938 closes our mailing list will have reached the 100,000 mark.

Our Next Issue

OUR next issue will have an article from the pen of Hon. David I. Walsh, the senior Senator from Massachusetts. Senator Walsh is a keen student of the principles that have made America great. He is an ardent champion of the right of every man to worship God according to the dictates of his own conscience. He is a firm believer in the doctrine that every man is endowed by his Creator with certain inalienable rights—that the right to serve God transcends any duty that a man may owe to civil government.

Commitments have been received from other men in public life. The *LIBERTY* magazine has entered a new era, and every one who is interested in the preservation of the fundamental principles of individual and soul liberty will rejoice in the success that is coming to it.

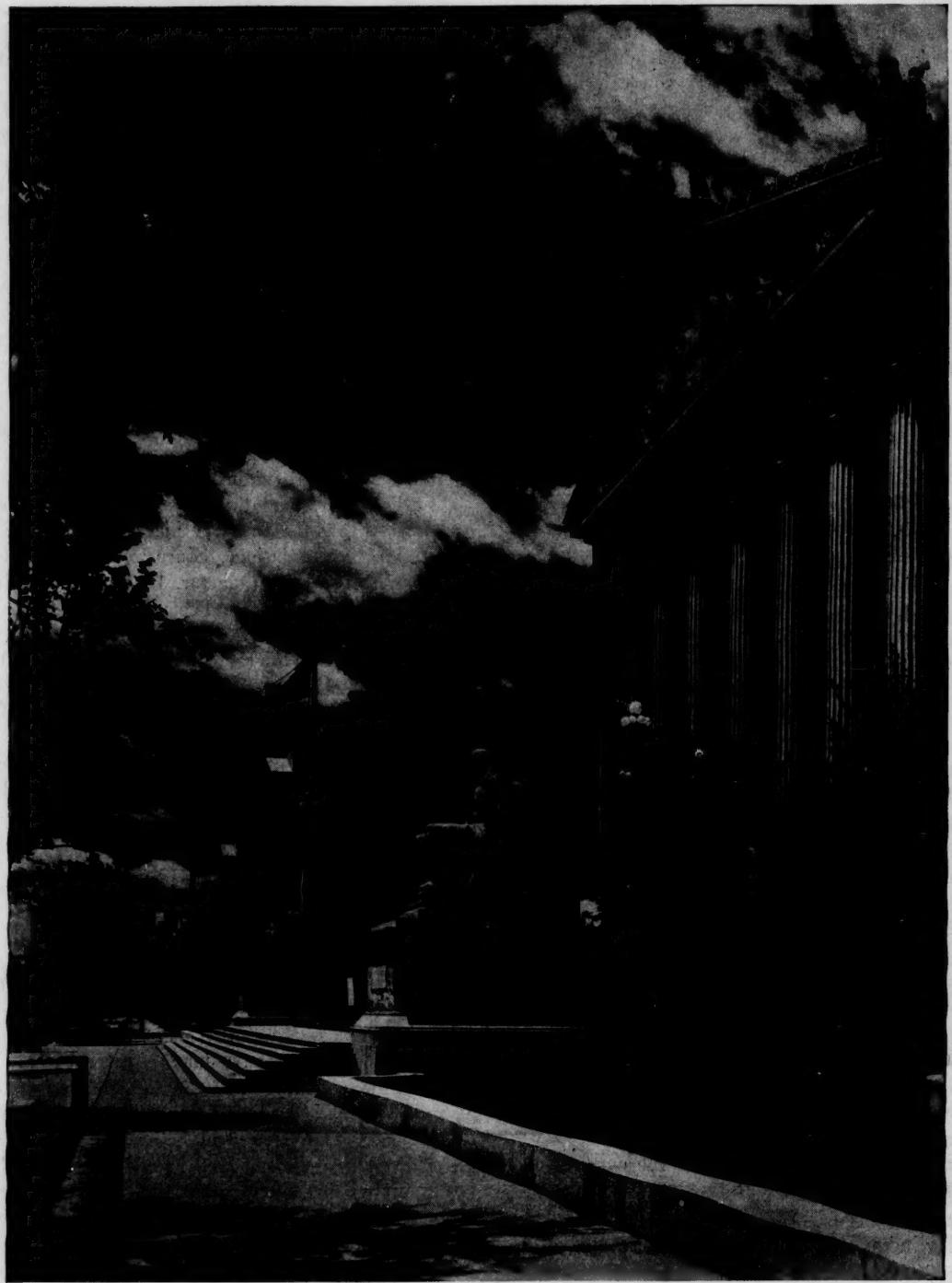


PHOTO BY HORVATZAK

Looking West on the North Side of Constitution Avenue in the Nation's Capital. The Structure in the Foreground on the Right Is the Archives Building. Here Are Kept the Important Documents and Records of the Federal Government Under Conditions Best Suited for Their Preservation. All the Buildings Shown Have Been Erected in Recent Years to House Various Departments of the Government

